

REMARKS/ARGUMENTS

Claims 1-3 and 6 are pending in this application. By this Amendment, Applicant AMENDS claim 1 and CANCELS claim 4.

Although the Examiner has not stated on the record that the Election Requirement dated February 27, 2009 has been withdrawn, Applicant notes that the Examiner did not withdraw claims 3 and 6 from consideration in the Office Action dated April 15, 2009 and has, in fact, examined all of claims 1-6 on the merits. Accordingly, Applicant considers the Election Requirement dated February 27, 2009 to have been withdrawn by the Examiner.

Applicant appreciates the Examiner's indication that claim 4 would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims.

Claims 1, 2, and 6 were provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 10 and 14 of co-pending U.S. Application No. 11/300,167.

Claim 3 was provisionally rejected under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 9 and 14 of co-pending U.S. Application No. 11/300,167.

Applicant has canceled allowable claim 4 and incorporated the features recited therein into claim 1.

Accordingly, Applicant respectfully submits that the provisional rejection of claims 1, 2, and 6 under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 10 and 14 of co-pending U.S. Application No. 11/300,167, and the provisional rejection of claim 3 under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 9 and 14 of co-pending U.S. Application No. 11/300,167 are moot.

In view of the foregoing amendments and remarks, Applicant respectfully submits that claim 1 is allowable. Claims 2, 3, and 6 depend upon claim 1, and are therefore allowable for at least the reasons that claim 1 is allowable.

In view of the foregoing amendments and remarks, Applicant respectfully submits that this application is in condition for allowance. Favorable consideration and prompt allowance are solicited.

To the extent necessary, Applicant petitions the Commissioner for a ONE-month extension of time, extending to March 5, 2010, the period for response to the Office Action dated November 5, 2009.

The Commissioner is authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1353.

Respectfully submitted,

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